

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1373-03
Bill No.: HCS for HB 643
Subject: Children and Minors; Domestic Relations; Crimes and Punishment
Type: Original
Date: April 8, 2011

Bill Summary: This proposal makes changes regarding the crime of criminal nonsupport.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	Unknown	Unknown	Unknown
Total Estimated Net Effect on General Revenue Fund	Unknown	Unknown	Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Child Support Enforcement Collections	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Courts Administrator (CTS)** state the proposed legislation would allow for abatement of certain support arrearages in criminal nonsupport cases. If defendants satisfy all current child support obligations, any conviction of the defendant may be expunged from the defendant's record.

In FY 2010, there were 9,558 criminal nonsupport filings. There may be an increase in the workloads of the courts. Any significant increase will be reflected in future budget requests.

Officials from the **Department of Economic Development, Department of Public Safety - Missouri Highway Patrol, Office of Prosecution Services** and the **Office of the State Public Defender** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Corrections (DOC)** state this bill proposes to allow for abatement of certain support arrearages in criminal nonsupport cases. The penalty provision component of this bill resulting in potential fiscal impact for DOC, is for an existent class D felony.

In FY09, the criminal nonsupport laws changed (SB 140) with positive impact expected for the DOC in the number of offenders. Due to lag in the court system, effects of this savings is just beginning to show up in the reduced numbers of these offenders coming to DOC for this offense(s). Reinstating a dollar amount for arrearage calculations as proposed in this bill has the potential to once again increase the number of offenders for the DOC. Prior to passage of SB 140, effective FY09, the DOC received 247 term sentenced offenders that year, with an average time served of about 7 months. This calculates to about 37 offenders in prison per annum and does not include 120-day shock incarcerants or those sentenced to probation.

Currently, the DOC cannot predict the number of new commitments which may result from the modification of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY10 average of \$16.397 per offender, per day, or an annual cost of \$5,985 per inmate) or through supervision provided by the Board of Probation and Parole (FY10 average of \$3.92 per offender, per day or an annual cost of \$1,431 per offender).

ASSUMPTION (continued)

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seventeen (17) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. It is estimated that potential costs will be in excess of \$100,000 per year.

Officials from the **Department of Social Services (DOS)** state this fiscal note is different from previous fiscal notes filed for this bill, in that this version of the bill removed the language that allowed for an abatement of the child support arrearage upon the successful payment of support by the defendant. With the absence of that language, the Family Services Division expects minimal impact to collections from this enforcement remedy. Therefore, the fiscal impact is zero.

Oversight assumes the changes to Section 568.040.5 may result in fewer nonsupport cases being charged as a class D felony instead of a misdemeanor. Oversight assumes pushing the current threshold of monthly payments of nonsupport from 12 to 18 could result in fewer nonsupport cases being charged as a felony instead of a misdemeanor. This would theoretically result in a potential lower cost to the Department of Corrections. Therefore, Oversight will assume a positive fiscal impact of this part of the proposal

Oversight will also range the fiscal impact to the Child Support Enforcement Collection fund from a positive Unknown to a negative Unknown.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE			
<u>Savings</u> - Department of Corrections Incarceration / Probation & Parole for offenders convicted of crimes changed in the bill. Threshold of a felony raised from 12 months of payments to 18.	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2012 (10 Mo.)	FY 2013	FY 2014
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**CHILD SUPPORT ENFORCEMENT
COLLECTIONS FUND**

<u>Income or Loss</u> - Collections potentially impacted by changes within HB 643	Unknown to <u>(Unknown)</u>	Unknown to <u>(Unknown)</u>	Unknown to <u>(Unknown)</u>
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**ESTIMATED NET EFFECT TO THE
CHILD SUPPORT ENFORCEMENT
COLLECTIONS FUND**

Unknown to <u>(Unknown)</u>	Unknown to <u>(Unknown)</u>	Unknown to <u>(Unknown)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Currently, criminal nonsupport is a class D felony if the total arrearage is in excess of 12 monthly payments due under any order of support. This bill specifies that criminal nonsupport will be a class D felony if the total arrearage is in excess 18 monthly payments. If the Missouri unemployment rate has remained at 6 percent or lower for 6 consecutive months, then the limit on the aggregate of 18 monthly payments shall become 12 monthly payments effective on the July first immediately following such notification.

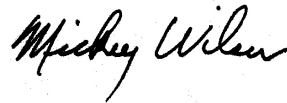
If a person pays all current child support obligations and all periodic payments toward satisfaction of arrears for 24 consecutive months, the court must expunge the person's record of a criminal nonsupport conviction.

FISCAL DESCRIPTION (continued)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Social Services
Department of Public Safety
Office of Prosecution Services
Office of the State Public Defender
Office of the State Courts Administrator
Department of Corrections
Department of Economic Development

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
April 8, 2011